

111TH CONGRESS
1ST SESSION

H. R. 1619

To amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to prohibit pre-existing condition exclusions for children in group health plans and health insurance coverage in the group and individual markets.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2009

Ms. SCHWARTZ (for herself, Ms. BERKLEY, Mr. BERMAN, Mr. BISHOP of New York, Mr. BLUMENAUER, Mr. BRADY of Pennsylvania, Mr. CARNEY, Ms. CLARKE, Mr. CLAY, Mr. CLEAVER, Mr. DEFazio, Ms. DELAURO, Mr. DOGGETT, Mr. ENGEL, Mr. FARR, Mr. FATTAH, Mr. ISRAEL, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. KAPTUR, Ms. KILPATRICK of Michigan, Mrs. LOWEY, Mr. McDERMOTT, Mr. MORAN of Virginia, Mr. NADLER of New York, Ms. SCHAKOWSKY, Mr. SERRANO, Ms. SLAUGHTER, Ms. SUTTON, Ms. WASSERMAN SCHULTZ, Ms. WATSON, Ms. WOOLSEY, Mr. WU, Ms. BALDWIN, Mrs. CAPPS, Mr. LANGEVIN, Ms. PINGREE of Maine, Mr. MURPHY of Connecticut, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. BARROW, Ms. MOORE of Wisconsin, Mr. TIERNEY, Mr. MURTHA, Mr. CROWLEY, Mr. ALTMIRE, Ms. LEE of California, Mr. LARSON of Connecticut, Mr. PALLONE, Mr. MICHAUD, Mr. CLYBURN, Mr. CONNOLLY of Virginia, Mr. WATT, Mr. ARCURI, Ms. EDWARDS of Maryland, Ms. DEGETTE, Mr. COHEN, Mr. WAXMAN, Mrs. HALVORSON, Ms. KILROY, Mr. THOMPSON of Mississippi, Mr. BRALEY of Iowa, Mr. HOLT, Mr. YARMUTH, Mr. SIRES, Ms. RICHARDSON, Ms. MATSUI, Mr. TONKO, Ms. FUDGE, Mr. HASTINGS of Florida, Mr. PERLMUTTER, Mr. BUTTERFIELD, Mr. KUCINICH, Mr. LOEBSACK, Ms. CORRINE BROWN of Florida, Ms. HIRONO, Ms. ROS-LEHTINEN, Mr. BOUCHER, Mr. DOYLE, Mr. MCGOVERN, Ms. LINDA T. SÁNCHEZ of California, Mr. KAGEN, Mr. SCHIFF, Mr. WEINER, and Mr. ELLISON) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to prohibit pre-existing condition exclusions for children in group health plans and health insurance coverage in the group and individual markets.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Children’s Health Pro-
 5 tection Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) According to the Bureau of the Census,
 9 8,100,000 children and young adults are uninsured
 10 at some point during the year. Young adults between
 11 the ages of 18 and 25 years old make up 21 percent
 12 of the total uninsured population.

13 (2) According to a recent study, approximately
 14 20 percent of school-aged children suffer from a
 15 chronic illness.

16 (3) Thirteen States have passed legislation that
 17 increased the age of dependency for young adults for
 18 purposes of private insurance coverage to age 25.

1 (4) When a child or young adult has a 63-day
 2 gap in insurance coverage, pre-existing condition ex-
 3 clusions, such as coverage limits or waiting periods,
 4 can be applied when the child or young adult be-
 5 comes insured under a new health insurance policy.

6 (5) Eliminating pre-existing condition exclu-
 7 sions for children is a vital safeguard to ensure all
 8 children have access to health care when in need.

9 (6) High-risk pools were created to help individ-
 10 uals with pre-existing conditions purchase insurance
 11 with the assistance of government subsidies. How-
 12 ever, State high-risk pools are often underfunded,
 13 unaffordable for patients, have long waiting lists and
 14 impose pre-existing condition waiting periods once
 15 enrolled.

16 (7) Pre-existing condition limitation periods for
 17 children in the private market discourage families
 18 from moving off Medicaid or the Children's Health
 19 Insurance Program.

20 **SEC. 3. PROHIBITION OF PRE-EXISTING CONDITION EXCLU-**
 21 **SIONS FOR CHILDREN UNDER GROUP**
 22 **HEALTH PLANS.**

23 (a) AMENDMENTS TO THE EMPLOYEE RETIREMENT
 24 INCOME SECURITY ACT OF 1974.—Section 701(d) of the

1 Employee Retirement Income Security Act of 1974 (29
2 U.S.C. 1181(d)) is amended—

3 (1) by striking paragraph (1) and inserting the
4 following:

5 “(1) EXCLUSION NOT APPLICABLE TO CHIL-
6 DREN.—A group health plan, and a health insurance
7 issuer offering group health insurance coverage, may
8 not impose any pre-existing condition exclusion in
9 the case of an individual who has not attained 25
10 years of age.”;

11 (2) by striking paragraphs (2) and (4); and

12 (3) by redesignating paragraph (3) as para-
13 graph (2).

14 (b) AMENDMENTS TO THE PUBLIC HEALTH SERVICE
15 ACT.—Section 2701(d) of the Public Health Service Act
16 (42 U.S.C. 300gg(d)) is amended—

17 (1) by striking paragraph (1) and inserting the
18 following:

19 “(1) EXCLUSION NOT APPLICABLE TO CHIL-
20 DREN.—A group health plan, and a health insurance
21 issuer offering group health insurance coverage, may
22 not impose any pre-existing condition exclusion in
23 the case of an individual who has not attained 25
24 years of age.”;

25 (2) by striking paragraphs (2) and (4); and

1 (3) by redesignating paragraph (3) as para-
2 graph (2).

3 (c) AMENDMENTS TO THE INTERNAL REVENUE
4 CODE OF 1986.—Subsection (d) of section 9801 of the
5 Internal Revenue Code of 1986 (relating to exceptions) is
6 amended—

7 (1) by striking paragraph (1) and inserting the
8 following:

9 “(1) EXCLUSION NOT APPLICABLE TO CHIL-
10 DREN.—A group health plan may not impose any
11 pre-existing condition exclusion in the case of an in-
12 dividual who has not attained 25 years of age.”;

13 (2) by striking paragraphs (2) and (4); and

14 (3) by redesignating paragraph (3) as para-
15 graph (2).

16 (d) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), the amendments made by this section
19 shall apply with respect to group health plans for
20 plan years beginning after the end of the 12th cal-
21 endar month following the date of the enactment of
22 this Act.

23 (2) SPECIAL RULE FOR COLLECTIVE BAR-
24 GAINING AGREEMENTS.—In the case of a group
25 health plan maintained pursuant to one or more col-

1 lective bargaining agreements between employee rep-
2 resentatives and one or more employers ratified be-
3 fore the date of the enactment of this Act, the
4 amendments made by this section shall not apply to
5 plan years beginning before the later of—

6 (A) the date on which the last of the col-
7 lective bargaining agreements relating to the
8 plan terminates (determined without regard to
9 any extension thereof agreed to after the date
10 of the enactment of this Act); or

11 (B) the date that is after the end of the
12 12th calendar month following the date of en-
13 actment of this Act.

14 For purposes of subparagraph (A), any plan amend-
15 ment made pursuant to a collective bargaining
16 agreement relating to the plan which amends the
17 plan solely to conform to any requirement added by
18 the amendments made by this section shall not be
19 treated as a termination of such collective bar-
20 gaining agreement.

1 **SEC. 4. PROHIBITION OF PRE-EXISTING CONDITION EXCLU-**
2 **SIONS FOR CHILDREN IN HEALTH INSUR-**
3 **ANCE COVERAGE IN THE INDIVIDUAL MAR-**
4 **KET.**

5 (a) IN GENERAL.—Section 2741 of the Public Health
6 Service Act (42 U.S.C. 300gg–41) is amended—

7 (1) by redesignating the second subsection (e)
8 (relating to market requirements) and subsection (f)
9 as subsections (f) and (g), respectively; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(h) PROHIBITION OF PRE-EXISTING CONDITION
13 EXCLUSIONS FOR CHILDREN.—Each health insurance
14 issuer that offers health insurance coverage in the indi-
15 vidual market may not impose any pre-existing condition
16 exclusion (as defined in section 2701(b)(1)(A)) in the case
17 of an individual who has not attained 25 years of age.”.

18 (b) CONFORMING AMENDMENT.—Section 2744(a)(1)
19 of such Act (42 U.S.C. 300gg–44(a)(1)) is amended by
20 inserting “(other than subsection (h))” after “section
21 2741”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply with respect to health insurance
24 coverage offered, sold, issued, renewed, in effect, or oper-
25 ated in the individual market after the end of the 12th

- 1 calendar month following the date of the enactment of this
- 2 Act.

